

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019-6064
TELEPHONE (212) 373-3000

LLOYD K. GARRISON (1946-1991)
RANDOLPH E. PAUL (1946-1996)
SIMON H. RIFKIND (1950-1995)
LOUIS S. WEISS (1927-1950)
JOHN F. WHARTON (1927-1977)

UNIT 5201, FORTUNE FINANCIAL CENTER
5 DONGSHUAN ZHONGLU
CHAOYANG DISTRICT, BEIJING 100020, CHINA
TELEPHONE (86-10) 5828-6300

SUITES 3601 - 3606 & 3610
36/F, GLOUCESTER TOWER
THE LANDMARK
15 QUEEN'S ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, UNITED KINGDOM
TELEPHONE (+44 20) 7367 1800

535 MISSION STREET, 24TH FLOOR
SAN FRANCISCO, CA 94105
TELEPHONE (415) 432-5100

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (+81-3) 3597-8101

TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 5100
PO. BOX 225
TORONTO, ONTARIO M5K 1J5
TELEPHONE (416) 504-0520

2001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

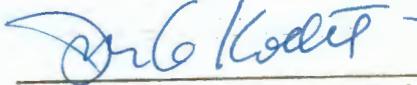
500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19888-0032
TELEPHONE (302) 855-4410

MATTHEW W. ABBOTT
EDWARD T. ACKERMAN
JACOB A. ADLERSTEIN
JARRYD E. ANDERSON
ALLAN J. ARFTA
STEPHAN ARNOLD-SOULBY*
NATHAN B. AUSTOR
ROBERT J. BARKIN
KANESH BALASUBRAMANIAM*
SCOTT A. BARTHAY
PAUL M. BASTA
LYNN B. BAYARD
JOSEPH B. BERNSTEIN
BRUCE BIRENBOIM
H. CHRISTOPHER BOEHNING
BRIAN BOLIN
ANGELA G. BONVINO
ANDRE G. BOUCHARD*
JOHN P. BRACHMAN
ROBERT A. BRITTON
BRAD BROWN
WALTER F. BROWN*
SUSANNA M. BUERGEL
JESSICA R. CAREY
JOHN P. CARLSON
DAVID CARMONA
GEOFFREY R. CEPPIGA
ELLEN N. CHING
WILLIAM A. CLEAREMAN
JOSEPH A. CLOUTIER
YAHONNEES CLEARY
REBECCA S. COCCARO
JAY COHEN
KELLEY A. CORNISH
JOSEPH P. CUMMINGS
THOMAS D. CUNNINGHAM
THOMAS V. DE LA BASTIDE III
MEREDITH R. DEARBORN*
KAREN L. DUNN
ALICE BELISLE EATON
JOSEPH A. EINHORN
CAROLINE B. EPSTEIN
GREGORY A. ERZING
ROSS A. FIELDSTON
ANDREW C. FINCH
BRAD J. FINCKELSTEIN
BRUCE P. FISCHMAN
ROBERTO FINZI
PETER E. FISCH
HARRIS FISCHMAN
KATHARINE B. FORREST
CHARLES B. FORESTER
HARRIS B. FREIDUS
MANUEL S. FREY
KENNETH A. GALLO
MICHAEL E. GERTZMAN
ADAM M. GIVARTZ
JULIANNE GOLIORMELLA
NEIL GOLDMAN
MATTHEW B. GOLDSTEIN
ROBERTO J. GONZALEZ*
CHARLES H. GOODE, JR.
ANDREW G. GOODMAN
BRIAN S. GRIEVE
UDI GROFMAN
MELINDA HAAS*
ALAN S. HALPERIN
INDIA HAMMERMAN
IAN M. HAZLETT
BRIAN S. HERMANN
JOSHUA HILL JR.
MICHELE HIRSHMAN
CHRISTOPHER HOFFMAN
ROBERT HOLO
CHRISTOPHER HOPKINS
DAVID S. HUNTINGTON
AMRAN HUSSEIN
DRENITA A. IPAGLITO
WILLIAM J. JACOSON*
JAREN JANGHORBANI
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LUKE JENNINGS
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DEIRDRE JONES*
MATTHEW B. JORDAN
CHRISTODoulos KACUTZANIS
BRAD S. KARIN
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JOHN J. KENNEDY
ROBERT A. KILLIP
BRIAN KIM
KYLE J. KIMPLER
ROBERT A. KINDEER
ROBERT D. KISTERERO
DANIEL J. KRAMER
ANDREW D. KRAUSE

BRIAN KRAUSE
CAITH KUSHNER
DAVID K. LAKSHMIR
GREGORY F. LAUFER
BRIAN C. LAVIN
MATTHEW N. LEIST*
XIAODONG LIU
RANDY LUSKEY*
LORETTA E. LYNCH
JEFFREY D. MARELL
MARCO V. MASCOTI
DANIEL W. MAYER
ELIZABETH R. MCCOLM
JEAN M. MCLOUGHLIN
MARK F. MENDELSON
CLAUDINE MEREDITH-GOUJON
MATTHEW MERKLE
WILLIAM J. MESSEL
SEAN J. MITCHELL
ERIN J. MORGAN
JUDIE NG SHORTLE*
CATHERINE NYARADY
JANICE O'BRIEN
CIAN O'NEILL*
BRAD R. OKUN
SUNG PAK
CRYSTAL L. PARKER
LINDSAY B. PARKER
ANDREW J. PARKER
DANIËLLE C. PENHALL
CHARLES J. PESANT
ANASTASIA V. PETERSON
ANDREAS PHILIPSON*
JESSICA R. PHILLIPS*
AUGUSTA POLLET*
RAVI PUROHIT
VALERIE E. RADWANER
JEFFREY J. RECHER
LORIN L. REISNER
JEANNIE S. RHEE*
ANDREW R. RENBERG
JACQUELINE P. RUBIN
RAPHAEL M. RUSSO
NEEL V. SACHDEV*
ELIZABETH M. SACKSTEDER
JEFFREY S. SAMUELS
PAUL J. SANDLER
AARON J. SCHLAPHOFF
KENNETH M. SCHNEIDER
ROBERT B. SCHUMER
JOHN P. SCHWARTZ
BRIAN SCRIVANI
KYLE T. SCRIVIEND
KANNON K. SHANMUGAM
SCOTT A. SHER*
SUMAN SHIVI
CULLEN J. SINCLAIR
MAURY SLEVIN
KYLE SMITH
AUDRA J. SOLOWAY
SCOTT M. SONTAK
JOHN P. SPERBER*
MEGAN SPELMAN
ROBERT Y. SPERLING
EYTAYO ST. MATTHEW-DANIEL
SARAH STASNY
BRIAN STERKIN
AIDAN SYNNOTT
ROBERT D. TANANBAUM
BRETTE TANNENBAUM
RICHARD C. TARLOWE
DAVID TARR
MONICA A. THURMOND
DANIEL J. TOAL
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CONRAD VAN LOGGERBERG
KRISHNA VEEARAGHAVAN
JEREMY VITALE
LITA M. VELAZQUEZ
MICHAEL VOGEL
ANDREA WAHLQUIST BROWN
JOHN WEBER
THEODORE J. WELLS, JR.
ERIC WEDEL
SAMUEL J. WELT
LINDSEY L. WIERSMA
STEVEN J. WILLIAMS
LAWRENCE J. WITDORFCHIC
MARK J. WOLLO
STACEY YABLON
BOSCO YIU*
KAYE N. YOSHINO
TONG YI
TALRIE M. ZEITZER
KENNETH S. ZIMAN
T. ROBERT ZOCHOWSKI, JR.

*NOT ADMITTED TO THE NEW YORK BAR

APPLICATION GRANTED
SO ORDERED


John G. Koeltl, U.S.D.J.

12/5/23

December 4, 2023

VIA ECF

Honorable John G. Koeltl
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: SEC v. Virtu Financial, Inc. and Virtu Americas LLC,
No. 1:23-cv-08072 (JGK)

Dear Judge Koeltl:

Our firm represents Virtu Financial, Inc. ("VFI") and Virtu Americas LLC ("VAL") (collectively, "Virtu" or "Defendants"), in the above-referenced action. Pursuant to Rules I.F and VI.A.2 of Your Honor's Individual Practices, we respectfully request the Court's permission to file under seal four exhibits (the "Exhibits") to the Declaration of Lorin L. Reisner in Support of Defendants' Motion to Dismiss the Complaint, which is being filed today. Plaintiff Securities and Exchange Commission consents to this request. As described below, the Exhibits consist of confidential and proprietary information that is the proper subject of a sealing request.

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Courts may seal records under their “inherent equitable powers . . . over their own process, to prevent abuses, oppression, and injustices.” *Int’l Prods. Corp. v. Koons*, 325 F.2d 403, 407–08 (2d Cir. 1963) (quotation marks omitted). While there is a “common law presumption of access” to judicial documents, *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006), the “weight of the presumption is a function of (1) ‘the role of the material at issue in the exercise of Article III judicial power’ and (2) ‘the resultant value of such information to those monitoring the federal courts,’ balanced against ‘competing considerations’ such as ‘the privacy interests of those resisting disclosure.’” *Bernstein v. Bernstein Litowitz Berger & Grossmann LLP*, 814 F.3d 132, 142 (2d Cir. 2016) (quoting *Lugosch*, 828 F.2d at 119–20). Records may be sealed on a finding that doing so is “essential to preserve higher values and is narrowly tailored to serve that interest.” *Lugosch*, 435 F.3d at 120 (quoting *In re N.Y. Times Co.*, 828 F.2d. 110, 116 (2d Cir. 1987)).

The Exhibits that Defendants request to file under seal concern non-public, proprietary and commercially sensitive information contained in Virtu’s internal policies and training manuals. This Circuit has long recognized that a party’s interest in protecting confidential business information outweighs the presumption of access. *See Standard Inv. Chartered, Inc. v. Fin. Indus. Reg. Auth., Ind.*, 347 Fed. App’x 615, 617 (2d Cir. 2009) (protecting confidential business information). Publicly filing the materials at issue would place Virtu at a competitive disadvantage by disclosing its training materials, which Virtu has spent significant time and effort to develop. It also would reveal confidential and proprietary information about Virtu’s business operations. Courts in this Circuit routinely find that the risk of revealing confidential business information that will place a party at a competitive disadvantage is a sufficient basis to overcome the presumption of access. *See, e.g., JMG Improvements, Inc v. Arch Specialty Ins. Co.*, 2021 WL 3173022, at *3 (S.D.N.Y. July 26, 2021) (insurance company’s interest in “protecting itself from a competitor’s obtaining unfettered access to its processes regarding claim handling” outweighed presumption of access); *Skyline Steel, LLC v. PilePro, LLC*, 101 F. Supp. 3d 394, 412–13 (S.D.N.Y. 2015) (granting request to seal documents that would reveal confidential sales and pricing information, and details of the plaintiff’s negotiations with clients); *Hesse v. SunGard Systems Int’l*, 2013 WL 174403, at *2–3 (S.D.N.Y. Jan. 14, 2013) (granting request to seal produced emails reflecting “sensitive client information and proprietary business information, including *inter alia*, the company’s billing rates and project pricing, as well as details of specific projects completed for several clients”).

Additionally, the Exhibits contain extensive information concerning Virtu’s information security practices, another category of confidential business information warranting protection. *See CBF Industria de Gusa S/A v. AMCI Holdings, Inc.*, 2021 WL 4135007, at *4 (S.D.N.Y. Sept. 10, 2021) (“protecting a company’s IT information fits comfortably within other ‘higher values’ consistently recognized by courts in this Circuit” that can prevail over the presumption of public access); *see also Ramirez v. Temin & Co., Inc.*, 2020 WL 6781222, at *6–7 (S.D.N.Y. Nov. 18, 2020) (identifying “IT information” within the category of “business information” warranting protection).

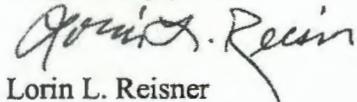
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3

Finally, Defendants' request is narrowly tailored and will not impede the public's access to information relevant to this litigation. The Complaint references and quotes from narrow portions of the policies and training manuals included in the Exhibits. Defendants' Motion to Dismiss the Complaint similarly references and quotes from these same portions—and closely related portions—of these documents. Defendants are not seeking to redact any of these references and quotations in the briefing. And the vast majority of the information contained in the Exhibits has no bearing on Plaintiff's claims or Defendants' motion. Because there is little to no public interest in disclosure of information not at issue in the case, *see Alto v. Sun Pharm. Indus., Inc.*, 2021 WL 4480952, at *1 (S.D.N.Y. Sept. 30, 2021) (granting sealing motion where public interest in pages of lab notebooks that described "experiments and data on projects other than the products at issue in this case" was "low"), Defendants' narrowly tailored motion should be granted.

For the foregoing reasons, Defendants respectfully request that the Court grant Defendants' unopposed motion and permit Defendants to file under seal the Exhibits to the Declaration of Lorin L. Reisner in Support of Defendants' Motion to Dismiss. We appreciate the Court's consideration and are available to address this request further if necessary at the Court's convenience.

Respectfully yours,



Lorin L. Reisner

cc: All counsel (via ECF)